

Judge: Karen A. Overstreet
Chapter: 11
Hearing Location: Seattle, WA
Hearing Date: 11/6/09
Hearing Time: 9:30 a.m.
Response Date: at the hearing

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:
THE CASCADIA
PROJECT LLC,
Debtor

Cause No. 09-20780
Chapter 11

OBJECTION TO
EMERGENCY
MOTION FOR
AUTHORIZING THE
DEBTOR TO: 1) PAY
PREPETITION
WAGES AND
SALARIES TO
EMPLOYEES; 2) PAY
PREPETITION
BENEFITS AND
CONTINUE BENEFIT
PROGRAMS IN THE
ORDINARY COURSE
OF BUSINESS; AND 3)
DIRECTING BANKS
TO HONOR
PREPETITION
CHECKS FOR
PAYMENT OF
PREPETITION
EMPLOYEE
OBLIGATIONS AND
ASSOCIATED COSTS

A. RELIEF SOUGHT

OBJECTION TO EMERGENCY MOTION FOR AUTHORIZING THE DEBTOR TO: 1) PAY PREPETITION WAGES AND SALARIES TO EMPLOYEES; 2) PAY PREPETITION BENEFITS AND CONTINUE BENEFIT PROGRAMS IN THE ORDINARY COURSE OF BUSINESS; AND 3) DIRECTING BANKS TO HONOR PREPETITION CHECKS FOR PAYMENT OF PREPETITION EMPLOYEE OBLIGATIONS AND ASSOCIATED COSTS -

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objection to discharge
U.S. Bankruptcy Court No. 09-20780

1 This Court should protect the escrowed sewer funds from invasion by expressly
2 including in its order words to the following effect: “Funds transferred to The Commerce
3 Bank of Washington from HomeStreet Bank pursuant to this Court’s order entered on
4 November 3, 2009 shall not be disbursed pursuant to this order.”

5 **B. ARGUMENT**

6 The Debtor does not have very much unencumbered money in the bank. The debtor’s
7 schedules indicate a total unencumbered amount of \$28,150.42. Debtor’s Schedule B.
8 \$28,143.28 of that money is held by The Commerce Bank of Washington. *Id.* The
9 encumbered amount is much more substantial: \$348,065.00. *Id.* That encumbered money
10 was protected by this court two days ago when it transferred the encumbered funds to The
11 Commerce Bank of Washington. Paragraph 6, Ex Parte Order Transferring Funds.
12 Numbered paragraph 6 of that order expressly preserved Pierce County’s interest in
13 \$234,219.29 of that encumbered money. The interests remain unchallenged.

15 The Debtor now proposes the following order: “The Debtor’s bank(s) are hereby
16 directed to honor prepetition checks for the payment of such Prepetition Employee
17 Obligations.” Unfortunately, the Debtor does not tell this Court how much these “prepetition
18 checks” amount to. If these “prepetition checks” for “Prepetition Employee Obligations”
19 amount to more than \$28,143.28, what happens if the Court enters the proposed order? Of
20 course the bank will honor the checks—because there is a court order directing the bank to
21 honor them. Pierce County and Orting might argue that they retain an interest in the funds
22 held by The Commerce Bank of Washington, but if the money has been disbursed by The
23

24
25 OBJECTION TO EMERGENCY MOTION FOR AUTHORIZING THE
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Commerce Bank of Washington pursuant to the order of this Court, the recovery of those funds back into the bankruptcy estate is problematical.

“Prepetition Employee Obligations” is a term of art defined in the proposed order and “prepetition checks” is left undefined for the bank. “Prepetition Employee Obligations” includes: “out of pocket business expenses, including credit card charges for company-authorized expenses, incurred by employees of the Debtor prior to the petition date.” This undefined and unspecified sum could be enormous—and it is only one example among many.

Any emergency order entered by this Court should foreclose any opportunity of The Commerce Bank of Washington to disburse the escrowed sewer funds.

Dated this 5 day of November, 2009

Respectfully submitted,

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